

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC. AND
LIZ VELAZQUEZ MCKINNON,

Defendants.

ORDER

THIS CAUSE is before the Court upon the Court's careful consideration of Defendants' Motion for Summary Judgment [DE 51] and Defendants' Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment [DE 52] ("DSOF"). The Court is otherwise fully advised in the premises.

First, Local Rule 7.1(c)(2) states:

Length. Absent prior permission of the Court, neither a motion and its incorporated memorandum of law nor the opposing memorandum of law shall exceed twenty (20) pages; a reply memorandum shall not exceed ten (10) pages.

S.D. Fla. L.R. 7.1(c)(2). Defendants' Motion for Summary Judgment is approximately twenty-one (21) pages long, exceeding the permitted length.

Additionally, Local Rule 56.1 states, in part:

(a) Statements of Material Facts.

(1) A motion for summary judgment and the opposition to it shall each be accompanied by a separate and contemporaneously filed and served Statement of Material Facts. **The movant's Statement of Material Facts shall list the material facts that the movant contends are not genuinely**

disputed.

...

(b) Form Required for Statements of Material Facts.

(1) All Statements of Material Facts. All Statements of Material Facts (whether filed by the movant or the opponent) shall be filed and served as separate documents and not as exhibits or attachments. In addition, the Statements of Material Facts shall:

(A) **Not exceed ten (10) pages;**

(B) **Consist of separately numbered paragraphs, limited as far as practicable to a single material fact, with each fact supported by specific, pinpoint references to particular parts of record material,** including depositions, documents, electronically stored information, affidavits, stipulations (including those made for purposes of the motion only), admissions, and interrogatory answers (e.g., Exhibit D, Smith Affidavit, ¶2; Exhibit 3, Jones deposition, p. 12/lines 4-9).

The pinpoint citations shall reference pages (and line numbers, if appropriate, of exhibits, designate the number and title of each exhibit, and provide the ECF number of all previously filed materials used to support the Statement of Material Facts. When a material fact requires specific evidentiary support, a general citation to an exhibit without a page number or pincite (e.g., “Smith Affidavit” or “Jones Deposition” or “Exhibit A”) is non-compliant. If not already in the record on CM/ECF, the materials shall be attached to the statement as exhibits specifically titled within the CM/ECF system (e.g., Smith Affidavit dated April 12, 2017, Jones Deposition dated May 19, 2018). Reference to a previously filed exhibit shall use the “ECF No.” format.

S.D. Fla. L.R. 56.1 (emphasis added). “When a party properly complies with Local Rule 56.1, it is relatively easy for a court to determine whether there is a genuine disputed issue of fact.”

Katchmore Luhrs, LLC v. Allianz Glob. Corp. & Specialty, No. 15-CIV-23420, 2017 WL

201840, at *2 (S.D. Fla. Jan. 18, 2017). Failure to follow the letter and spirit of this imperative

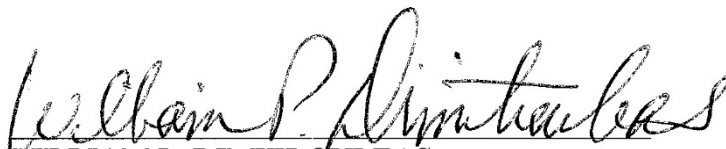
local rule imposes on the Court “an arduous process, and, in any event, generates unnecessary

work for the court and its staff.” *Id.*

In this case, Defendants’ filing does not comply with the criteria nor the spirit of the Local Rules. Defendants’ Statement of Undisputed Material Facts [DE 52] is approximately twelve (12) pages long, exceeding the permitted length. As written, several of Defendants’ asserted facts do not consist of “separately numbered paragraphs, limited as a far as practicable to a single material fact.” *See, e.g.*, DSOF ¶¶ 34, 47. Defendants also improperly intermingle legal conclusions in at least one of the asserted facts, making it difficult to determine whether that asserted fact is actually a fact for purposes of summary judgment. *See* DSOF ¶ 71. The Local Rules specify that “[i]f a party files and serves any Statement of Material Facts that does not comply with this rule, then the Court may strike the Statement...” L.R. 56.1(b)(1).

Accordingly, it is **ORDERED AND ADJUDGED** that Defendants’ Motion for Summary Judgment [DE 51] and Defendants’ Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment [DE 52] are hereby **STRICKEN**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,
this 12th day of July, 2023.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies to:
Counsel of record